



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-251, Sewerage Collection Business**

Date last reviewed: **September 29, 1999**

Current Reviewer: **Gilbert Brewer**

Date current review completed: **March 6, 2002**

Is this document being reviewed at this time because of a taxpayer or association request? (If "YES", provide the name of the taxpayer/association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Briefly describe the subject matter of the rule(s):

The rule explains the B&O, retail sales, and use tax reporting responsibilities of persons collecting and/or treating sewage.

2. Related statutes, interpretive statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered interpretive statements.)

YES	NO	
	X	Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
X		Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
X		Are there any administrative decisions (e.g., Appeals Division decisions



		(WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
X		Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

Information from the following should be incorporated into Rule 251 when the rule is next revised.

- *City of Spokane v. Dept. of Revenue*, __ Wash.2d __, 38 P.3d 1010 (2002) – the Court adopted a "substantial use" test for classifying sewerage under which collection sewerage includes only laterals and excludes interceptor sewers.
- No. 98-208, 19 WTD 332 (2000) – municipal sewerage and surface water management activities (other than sewerage collection) are not exclusively governmental in nature and are, therefore, subject to Services & Other Activities B&O tax.

The previous review of this rule recommended that the information provided in Audit Directive 8251.1 be incorporated into Rule 251. Audit Directive 8251.1 stated that collection activity ends at the last point prior to the treatment facility. This directive has been cancelled because it directly conflicts with the Supreme Court's decision in *City of Spokane*.

3. Additional information: Identify any additional issues (other than that noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

4. LISTING OF DOCUMENTS REVIEWED: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive statements, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented:

Interpretive statements (e.g., ETAs and PTAs):

Court Decisions: *City of Spokane v. Dept. of Revenue*, __ Wash.2d __, 38 P.3d 1010 (2002)



Board of Tax Appeals Decisions (BTAs):

Administrative Decisions (e.g., WTDs): **No. 98-208, 19 WTD 332 (2000)**

Attorney General's Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

4. Review Recommendation:

<u> X </u>	Amend
_____	Repeal (Appropriate when repeal is not conditioned upon another rule-making action.)
_____	Leave as is (Appropriate even if the recommendation is to incorporate the current information into another rule.)
_____	Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

The rule should reflect the recent judicial and administrative decisions cited above and, as recommended in the previous review of this rule, address the storm water issues discussed in Audit Directive 8251.2.

5. **Manager action:** Date: _____

_____ Reviewed and accepted recommendation



Amendment priority:

- _____ 1
- _____ 2
- _____ 3
- _____ 4